

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)
) CRIMINAL ACTION NO.
v.) 2:19cr118-MHT
) (WO)
CLARENCE WRIGHT LANE, JR.)
and KHIRY DEVON LACEY)

OPINION AND ORDER

This case is before the court on defendants Clarence Wright Lane, Jr.'s and Khiry Devon Lacey's motions to continue trial. For the reasons set forth below, the court finds that jury selection and trial, now set for August 12, 2019, should be continued pursuant to 18 U.S.C. § 3161(h) (7).

While the granting of a continuance is left to the sound discretion of the trial judge, *see United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or

indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence," § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public, Lane, and Lacey in a speedy trial. Defense counsel for Lane represents that he needs more time to investigate the case. Defense counsel for Lacey represents that he has two other criminal trials set for July 29 and August 12, 2019, and that he also needs more time to meet with Lacey to determine how he wishes to proceed. The government does not oppose a continuance. Based on these reasons, the court concludes that a continuance is warranted.

Accordingly, it is ORDERED as follows:

- (1) Defendant Khiry Devon Lacey's written motion to continue the trial (doc. no. 53) is granted.

(2) Defendant Clarence Wright Lane, Jr.'s oral motion to continue the trial (doc. no. 54) is granted.

(3) The jury selection for defendants Lane and Lacey, now set for August 12, 2019, is continued to September 9, 2019, at 10:00 a.m., and the trial, now set for August 12, 2019, is continued to September 16, 2019 at 9:00 a.m., both of which are to take place in the Frank M. Johnson Jr. United States Courthouse Complex, Courtroom 2FMJ, One Church Street, Montgomery, Alabama.

DONE, this the 26th day of July, 2019.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE